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| 08/048,218    | 04/20/93    | FIER                 | A                   |

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LUEBKE, R EXAMINER

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| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2403     | 6            |

DATE MAILED: 11/19/93

This is a communication from the examiner in charge of your application  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-15 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
- ☐ Claims \_\_\_\_\_ have been cancelled.
- ☐ Claims \_\_\_\_\_ are allowed.
- ☒ Claims 1-15 are rejected.
- ☐ Claims \_\_\_\_\_ are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

I. The drawings are objected to because of the reasons listed on the enclosed form PTO-948. In addition, reference numeral "14" is used in the specification (page 4, line 7), but is not found in the figures. Correction is required.

II. The disclosure is objected to because of the following informalities:

A. Contrary to page 3, line 30, Fig. 1 is a side view, not a perspective.

B. On page 6, at lines 1 and 7, "suspenders" should be -shoulder strap assembly- in order to maintain consistent terminology.

C. Contrary to page 6, line 3, the attachment is not made in front of the wearer.

Appropriate correction is required.

III. A review of the claims in this application reveals that applicant is unfamiliar with patent prosecuting procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skillful preparation and prosecution. In particular, the claims are the legal document that defines the invention which applicant seeks to protect.

The Office cannot aid in selecting an attorney or agent. Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

IV. Claims 1-15 are rejected as failing to define the invention in the manner required by 35 U.S.C. §112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The **structure** which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete, operative device. The claims must be in one sentence form only. Note the format of the claims in the cited patents of Smith and Manzer.

The phrase "of the type" is considered to be indefinite as no type has previously been defined.

The claims contain numerous phrases that are used without antecedent basis. These include, but are not limited to, "the side margins" and "the bottom" of claim 1; "the rear panel" in claim 9; "the shoulder strap means," "their terminal ends," "the other end" and "the lower side margins" in claim 10; "the rear elongated support member," "the kinetic energy" and "the longitudinal axis" in claim 11; "said belt halves" of claim 13 and "the longitudinal and horizontal axis" of claim 15. Before a claim can refer to an item, such as by use of "the" or "said," the item must be defined in the claim.

It is unclear whether the "length of nylon webbing" on line 3 of claim 2 is the same as "the shoulder straps attached to the rear panel" of claim 1. If so, this should be made clear.

Claims 10 and 12 are lacking periods at their conclusions.

It is noted that terminology should remain consistent throughout the claims. Additionally, the terminology used in the claims should be consistent with that in the specification.

V. The following is a quotation of the appropriate paragraph of 35 U.S.C. §102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed

publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. §103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

VI. Claim 1, as best understood, is rejected under 35 U.S.C. §102(b) as being anticipated by Williams. This device comprises a bag and a set of shoulder straps 26, 28 as claimed. The buckle fasteners at the free end of the shoulder straps allow detachment and a variable configuration.

VII. Claim 3, as best understood, is rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Manzer. The use of closed cell foam, coated nylon and adjustable buckles, as shown by Manzer, is well known in carriers. The use of such materials would have been obvious on the straps of Williams in order to increase comfort and adjustability of that device.

VIII. Claims 9 and 10, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Richards. The straps on

this device are arranged as claimed. The single strap 16 is seen to be attached to a "rear panel" of the pack as the surface it is on also faces the rear.

IX. Claim 11, as best understood, is rejected under 35 U.S.C. § 103 as being unpatentable over Richards. The use of an elastic material for the support member 16 would have been an obvious alternative since the use of elastic straps on back pack straps and other carrying straps is well known for increasing the comfort of the wearer.

X. Claims 9 and 12, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Baum. This pack comprises a shoulder strap assembly 19, 31 attached to the front 11 and rear of the bag. The strap 19 is "able to be passed over the shoulders" and provides auxiliary load support and stabilization. In reference to claim 12 the strap 31 can be detached and stored.

XI. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The pack of Smith comprises the waist belt and webbing of the present invention, but lacks shoulder straps. The devices of Myatt and Mautner comprises straps attached at the rear. The bag of Droeger is a further example of straps that retract.

XII. It is called to applicant's attention that if a communication is mailed before the response time has expired applicant may submit the response with a "Certificate of Mailing" which merely asserts that the response is being mailed on a given date. So mailed, before the period for response has lapsed, the response is considered timely. A suggested format for a certificate is:

"I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in

Serial No. 08/048218  
Art Unit 2403

-6-

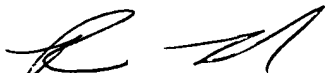
an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on ..."

Name of applicant, assignee, or Registered Representative

Signature \_\_\_\_\_

Date \_\_\_\_\_

XIII. Any inquiry concerning this communication should be directed to Mrs. Renee Luebke at telephone number (703) 308-1511.

  
Renee S. Luebke  
Primary Patent Examiner  
November 13, 1993